

April 17, 2017

VIA EMAIL

Delta Stewardship Council  
Attn: CEQA for Amending the Delta Plan  
980 Ninth Street  
Suite 1500  
Sacramento, CA 95814  
[deltaplanNOP@deltacouncil.ca.gov](mailto:deltaplanNOP@deltacouncil.ca.gov)

Re: NOP Delta Plan Amendments  
Comments on scoping process regarding including Delta residents, communities of color, and low income communities;  
Comments on scoping substance for conveyance/storage/operation policy;  
Comments on scoping substance performance measures.

Dear Chairman Fiorini and Members of the Council:

I write to you on behalf of Save the California Delta Alliance, a membership organization based in Discovery Bay, California. Discovery Bay is a waterfront community in the heart of the Delta. Our membership is made up of people who live, work, and recreate in the Delta. We have particular expertise in matters concerning the Delta as Place and on recreation in the Delta. Our board of directors and membership includes past and present officers of the Discovery Bay Yacht Club, Delta waterskiing and wakeboarding associations, marine and recreation-related businesses, the Discovery Bay Chamber of Commerce, recreational fishing interests, Delta tour boat operators, marina operators, and thousands of individuals who own waterfront homes with attached docks in the Delta.

The Council receives well-qualified advice in the natural sciences from its lead scientist and from the Delta Independent Science Board. The Council also regularly receives comment letters addressing Delta hydrology, Delta ecology, and water system reliability from in-Delta agricultural diverters, local and national environmental organizations, and water export contractors. We believe, however, that there is an information gap with respect to the Delta as place and recreation in the Delta. We respectfully suggest that these important areas of the Council's jurisdiction have been given insufficient attention in the Delta Plan process thus far in general and in development of the current update in particular. We welcome this update to the Delta Plan as an opportunity to engage with the Council and its staff on the essential statutory duty of the Council to protect and enhance the unique cultural and recreational values of the Delta as an evolving place. We hope to provide essential information and expertise (that has otherwise been largely inaccessible) to the Council in a collaborative process that the Council will find useful. We provide in detail below, our suggestions on the scoping process and on a reasonable range of alternatives.

**I. The Scoping Process Should Be Revised And Extended In Order To Receive Vital Public Input From Real People, Including Underserved Communities.**

We appreciate this opportunity to share our views and expertise with you and hope that it will mark the beginning of a thorough scoping process. In order to adequately comply with the spirit of CEQA's scoping requirements and to adequately inform Council and Staff, we believe the Council should conduct at least three additional scoping workshops, announced well in advance, separated by at least 2 weeks (preferably 3 weeks) each, and conducted in the Delta on Saturdays.

A practical and useful understanding of the Delta as place will come from listening to, and learning from, the people who live here. The need is urgent because the Delta will be utterly destroyed by construction and operation of the California WaterFix in its current configuration (Alternative 4A). The function of the Council's amendment to address conveyance/storage/operation should be, among other things, to ensure that the destruction currently envisioned by DWR will be foreclosed by Council policy. This is not to say that we insist that the Council agree with us on any particular conveyance configuration; it is to say that destruction of the Delta as place should not be allowed in the name of satisfying contractor/DWR desires to reach export of full contract amounts. There are practical, reasonable, alternatives that are presently being willfully ignored.

It is my understanding that Council members were particularly pleased with the turnout and quality of comments at the scoping meeting held in Brentwood on March 23, 2017. Fresh faces and fresh ideas were obviously welcomed by Council members. One of the epistemic hazards of agency public policymaking is that "public" hearings are almost exclusively attended by the "agency-family" of paid lobbyists, lawyers, and NGO representatives. A small handful of dedicated citizen-adherents fill out the audience. In contrast to the Brentwood meeting, the echo chamber effect regularly experienced by the Council is due in large measure to the scheduling of meetings in Sacramento during the work day. It is difficult for working people to take an entire day off of work in order to travel to and from Sacramento to attend Council meetings; and at that, not be certain whether a particular item will come up on Thursday or Friday. We understand that it is very difficult for the Council to predict the exact time and day (within your 2-day meetings) a particular item will come up and we understand that state agencies conduct government business in the capital during the work week. We suggest, however, that amendment of the plan (and these amendments in particular) is important enough to make a limited exception to regular practice and hold three meetings on Saturdays in the Delta.

We would start the ball rolling with a suggestion that one meeting each be held in Clarksburg, Discovery Bay, and Stockton for the following reasons:

**Clarksburg**, Hood, Walnut Grove, and Locke are all designated legacy communities. Locke, in addition, is on the national register of historic places and is "the only town in the United States built primarily by early Chinese immigrants." Cal. Pub. Res. Code § 32301(f). According to the National Park Service, Locke is the "largest, most complete example of a rural, agricultural Chinese American community in the United States." Clarksburg and Hood are also extremely important centers of Delta legacy and culture. These communities have suffered environmental injustice throughout the DBCP process.<sup>1</sup> This area has been selected for destruction by the siting of intakes and

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<sup>1</sup> Although section 106 of the National Historic Preservation Act requires federal agencies to conduct significant outreach to communities like Locke, the governing board of Locke was never engaged in the process (and did not know about the section 106 process) until very recently when Locke contacted the federal government. Please see attachment 1 hereto, a letter from the Locke Management Association regarding

related facilities for WaterFix. We would like to offer Council members a short bus tour (one hour or less) of these towns so we can point out the value of these towns on the ground as well as point out the location of WaterFix facilities and ground truth their impacts. The bus tour could be conducted before the meeting. We will assure the Council of a large and respectful turnout at the meeting and would enjoy the opportunity to extend warm hospitality and respect to Council members during the bus tour. We can facilitate a meeting place as well. This would all be at no cost to the Council and all facilities would be properly certified and licensed to meet applicable California standards.

**Stockton** is home to a large African-American community that enjoys boating and fishing on the Delta. The Stockton community includes low-income households that are under-represented at almost all governmental proceedings concerning the Delta. With advance notice, we can provide for a good turnout of respectful voices that go mostly unheard. We think Council members will be pleased and come away feeling that the trip to Stockton was a worthwhile investment of time.

**Discovery Bay** regularly turns out 400 to 600 people at Delta Alliance's periodic town hall style meetings. The community is intensely interested in Delta issues. Discovery Bay is home to many unique Delta cultural events, such as the paddle for fame, opening day yacht parade, and Christmas yacht parade. Discovery Bay is also in close proximity to several marinas that will be forced out of business by CWF, and waterski competition courses that will be forced to close by CWF. Discovery Bay is also close to the area of intense CWF construction impacts that will all but obliterate boating in the south-central Delta. We would like to offer Council members a short boat tour, on a licensed and Coast Guard certified passenger vessel/tour boat, of the impacted areas. Depending on Council preference, the tour could be conducted in about an hour, or could be longer and more extensive if Council members prefer that option. We can provide a meeting place in Discovery Bay as well. Council members will be met with a warm reception as honored guests. We can provide a turnout of at least 600 and perhaps over a thousand people. This is an opportunity for the Council to communicate directly with the public (and perhaps dispel some misperceptions) as well as an opportunity for the public to communicate with the Council.

## **II. Scoping Should Produce A Reasonable Range of Alternatives To The Devastating Impact Of CWF's Multiple Intake Twin Tunnel Isolated Conveyance Proposal On The Delta As Place And Delta Recreation.**

Perhaps the greatest of the many failings, and they are legion, of the CWF FEIR/S is its lack of analysis of the impacts of the project on the Delta as place, including its impacts on recreation and on Delta communities. As a responsible agency, the Council may not rely on the CWF Final EIR/S prepared by DWR because the project "will have one or more significant effects not discussed in the previous [CWF] EIR," 14 CCR § 15162(a)(3)(A), and "[s]ignificant effects previously examined will be substantially more severe than shown in the previous EIR," 14 CCR § 15162(a)(3)(A), and "[m]itigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative." 14 CCR § 15162 (a)(3)(D).

CWF proponents have failed to disclose impacts on the Delta as place and recreation, failed to disclose the severity of impacts that are identified, and arbitrarily

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environmental injustice and the impacts of CWF on Locke. The Council is not bound by section 106, however the community would very much appreciate the Council's short visit to Locke and nearby outreach meeting in Clarksburg.

refused reasonable alternatives that would substantially reduce, or eliminate entirely, significant adverse impacts. DWR and the Contractors have refused to consider any portfolio elements, and, in particular, have refused to consider any storage element. Because the CWF FEIR/S is inadequate, the Council's scoping for a conveyance policy should encompass a full examination of all impacts of an isolated conveyance facility from the north Delta to Clifton Court Forebay, if such a facility is to be considered as an option falling within the Council's forthcoming policy. Delta Alliance's policy preference is to exclude any CWF-like proposal, however we understand the Council is under no obligation to accept any stakeholder's preferred policy. We do believe, however, that the council is under an obligation to undertake a complete, independent environmental analysis of any policy that promotes isolated conveyance as a potential option.

With regard to the quality of the Final EIR/S as an informational document, the Delta ISB has repeatedly criticized the environmental documents' lack of clarity, lack of organization, and lack of informative and comprehensible graphics. The Final EIR/S purports to respond to the ISB's concerns but does so in a specious manner that actually further misleads the public and dissembles the true nature of the project under the obfuscating mass of 30,000 pages of repetitive, redundant, irrelevant chatter. We provide concrete examples below.

We believe that the Council's Discussion Draft for New and Improved Water Conveyance is pre-decisional as it endorses the current CWF proposal at the outset; at best the discussion draft pre-decisionally selected CWF as the preferred alternative before conducting scoping. This policy direction is in large measure influenced by the fatally flawed CWF EIR. It is clear, as the Council acknowledges, that Water Code sections 85020 and 85304 do not favor, let alone require, new points of diversion on the Sacramento River connected to isolated conveyance facilities. *See, e.g.* Discussion Draft at III. D (conveyance and diversion facilities outside the Delta). In fact, the precise configuration of CWF (and the Council's endorsement of multiple intake isolated conveyance) is a legislatively disfavored project. *See* Water Code § 85320(b) (CWF not eligible for incorporation into Delta Plan and not eligible for state funding because project failed to meet legislature's standard of qualifying as an HCP and NCCP). CWF is the failed BDCP that, like the yellow man in David Lynch's dark thriller *Blue Velvet*, gets shot in the side of the head point blank but remains standing for days on end, the blood and gore congealing on his face and yellow sports coat. The BDCP was shot dead when the federal fish agencies refused HCP status. The Council made a mistake in deferring all decisions on conveyance to the BDCP when it promulgated the Delta Plan in 2013. It makes no sense to compound the error now by scrambling to amend the Plan to conform it to a failed project.

**A. Scoping Should Take A Lesson From CWF By Developing Alternatives That Exclude The Failings Of Multiple Intake Isolated Conveyance Plans.**

The ISB has repeatedly called for informative graphics to allow the public and responsible officials to comprehend the impacts of the project and the differences between alternatives. The final document contains added graphics that purport to answer the ISB's call. However, the added graphics are designed to mislead the public and responsible officials and hide impacts.

Attachment 1 hereto is Figure 6-0, Comparison of Impacts on Surface Water, from the FEIS. The top half of the chart compares the difference in flood flows at

Freeport and Vernalis<sup>2</sup> across existing conditions and the range of alternatives. The chart shows no more than a 3% difference across the range at both locations. This would lead the public and responsible agencies to conclude that the project will have a negligible effect on surface flows. This is false and misleading.

The North Delta Intakes will divert a substantial amount of water at times *other than peak flood flows*. Attachment 2 hereto is a graphic prepared by DWR and submitted to the SWRCB as evidence in the current water rights hearings. The document can be found on the SWRCB WaterFix change petition website as DWR-5 errata, page 24 (under the heading Petitioner Department of Water Resources' Exhibits). This chart depicts application of the bypass rules as of the Draft Biological Assessment.<sup>3</sup> It shows that 9,000 cfs can be diverted at a river flow of 20,000 cfs, meaning almost 50% of the flow of the Sacramento River will be diverted.<sup>4</sup> Moreover, the bypass rules shown on DWR-5 are *not in effect* during July and August. The only operating constraints in effect during July and August are that bypass flow at the North Delta Intakes be maintained at a minimum of 5,000 cfs and that flows at Rio Vista be maintained at a minimum of 3,000 cfs.<sup>5</sup> Reductions in Sacramento River flow downstream of the intakes could be even more dramatic during low flow summer months. Indeed, tunnel proponents actually plan to meet the goal of exporting full contract amounts by exporting more water *during the summer months* (rather than diverting winter storm flows) because constraints imposed by the fish agencies (such as fall X2 and pulse flow requirements being built in to the WaterFix BiOps) do not apply during the summer.

Attachment 3 hereto is a graph of flow projections produced by DWR in response to discovery requests by parties to the CWF water rights hearings. It may be found on the SWRCB CWF water rights hearing website as SHR-352 (under the heading Other Parties' Exhibits, Snug Harbor Resorts). Please notice that the flow of Steamboat Slough drops from 2500 cfs under the no action alternative to 1500 cfs at operating scenario H3 during the month of July. This reduction in flow will have a devastating effect on Steamboat Slough, including putting Snug Harbor Resort out of business. It comes as no surprise that the resort, located about 2 miles upstream of the confluence of Steamboat Slough with the Sacramento River (heading upstream from Rio Vista), does almost all of its business in the warm and sunny summer months, when flows are low. The reduction in water levels in Steamboat Slough will leave the resort's docks high and dry and its beach unusable.<sup>6</sup>

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<sup>2</sup> The chart mislabels the measurement as "Sacramento River at Vernalis," rather than San Joaquin River at Vernalis, which perhaps stems from the lack of care and concern that went into preparation of the chart.

<sup>3</sup> The operating rules used to produce the chart can be found at table 3.3-1 on pages 3-75–80 and table 3.3-2 on pages 3-81–87 of the Draft Biological Assessment, dated January 2016 (although not a part of the WaterFix change petition application, these tables are the closest thing to a project description yet produced by DWR).

<sup>4</sup> DWR's lawyers argue that this much water, although allowed under the bypass rules, could not be diverted because D-1641 would act as a constraint above and beyond the bypass rules. However, DWR's *witnesses* upon cross examination could not and would not state that they knew that DWR's litigating position was correct as to the effect of D-1641 on diversions. There is no evidence to show that a diversion of 9,000 cfs will not occur at a river flow stage of 20,000 cfs.

<sup>5</sup> See Table 3.3.1 of the Draft Biological Assessment.

<sup>6</sup> DWR has promised agricultural diverters on Steamboat Slough that it will mitigate lowered water levels by retrofitting siphons with longer snouts in order to reach lowered water levels. No such mitigation is feasible for resort facilities (nor has any been offered).

DWR's Figure 6-0 is a deliberate attempt to hide the impact of flow reductions on Delta businesses and communities. This is but one example of how charts provided to assuage the ISB's concerns actually further the dishonesty replete throughout the FEIR/S.

Figure 6-0 is not a mistake or product of hasty preparation. It is a lie.

Both preparation of the Council's EIR and the substantive content of alternatives developed through scoping should avoid the informational and design failures as lessons learned from CWF.

## **B. Scoping Should Develop Alternatives That Avoid CWF's Destruction Of the Delta As Place.**

As Delta residents, we are very concerned with the impacts on the Delta as place.

Mariners use the term "local knowledge" to acknowledge that no matter the skill of the skipper, the wealth of electronic navigational aids, and soundness of the vessel nothing will substitute for the company of a local boater when crossing the shoals of an unfamiliar harbor entrance. Likewise, nothing can inform Delta decision-makers in place of indigenous Delatinians. The need for local advice here (as in crossing unknown waters) is all the more acute because of the extraordinary levels of uncertainty that accompany current proposals for the Delta.

### **1. Loss of Marinas and Destruction of Boating Activities.**

FEIR/S Figure M15-4, sheet 5, depicts the impacts of tunnel construction on recreational resources in the vicinity of Discovery Bay (Attachment 4 hereto). The FEIR/S concludes that there will be negligible impacts and that the only significant impact in this area will be inconvenience to, and annoyance of, users of Bullfrog Marina (located on Middle River, just downstream of Railroad Slough). Although rebarbative in influence, the construction will not impede access to the Marina or other boating resources and nautical life will continue unabated—so proclaims DWR. *See* FEIR/S, p. 15-73 ("use of the [Bullfrog] marina's boating facilities would not be affected by tunnel/pipeline construction activities").

The confluence of construction activities, however, will spell doom for Bullfrog Marina and boating in general in this area. DWR proposes a barge unloading facility within 2-3 miles both upstream and downstream of Bullfrog. There is a geotechnical exploration zone proposed mid-channel a few hundred yards upstream, which will block navigation. The FEIR/S discloses 11,800 barge trips to carry precast concrete tunnel segments to construction staging areas. The tunnel muck will also be carried away from construction areas on barges. We have not yet completed our calculation of undisclosed barge trips carrying tunnel muck, but it is reasonable to estimate that it will be in excess of 20,000 trips as the mass of the muck (31,000,000 cubic yards) is significantly greater than the mass of the tunnel linings. To make 32,000 barge *trips* over the course of construction will require the deployment of several hundred barges.<sup>7</sup> The entire Delta, and this area in particular, will be sweltering with barges anchored waiting to be unloaded, barges unloading tunnel segments, barges loading tunnel muck, and barges departing and arriving, for 11 years.

Bullfrog Mariana depends in large measure upon sales of fuel to boaters at its fuel dock. Bullfrog Marina has a distinct advantage over the fuel dock in Discovery Bay because the dock in Discovery Bay sits at the end of a long 5 mile per hour zone. Boaters avoid the half hour 5 mile per hour ride by going to Bullfrog for fuel. The 5 mile per hour barge zones surrounding Bullfrog and the platoons of barges hindering navigation in the

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<sup>7</sup> By drastically under-reporting barge trips, the FEIR/S also significantly understates impacts on air quality from diesel exhaust expelled from tugboats pushing the barges.

vicinity of Bullfrog will eliminate this advantage and the Discovery Bay fuel dock will become more convenient to many boaters recreating in this part of the Delta.

It is also important to understand that about half of the boat traffic in the vicinity of Discovery Bay and Bullfrog Marina is composed of trailer boats owned by people who do not live in Discovery Bay. The Discovery Bay Marina has a large “dry stack” storage facility where people who live out of area store their boats out of the water. Come the weekend, they call ahead to the harbor master who arranges to have the boat taken down off of the storage racks and launched. At the end of the day or weekend, the boat is put away back in the stacks. Likewise, many out of area boaters trailer their boats to Discovery Bay and launch them on the well-situated concrete launch ramps at the Discovery Bay Marina.<sup>8</sup> On the other hand, people who live in Discovery Bay keep their boats in the water at their own docks attached to their waterfront homes.

The non-indigenous boaters can easily choose to boat somewhere else. They can dry stack at any number of California lakes; they can trailer their boat to any number of California lakes. And, given the noise, smell, vibration, barge blockades of favorite waterways, and multitude of barge-induced 5 mile per hour zones, why would they continue to come to Discovery Bay (and Bullfrog Marina) to boat when there are a multitude of other boating venues for trailer boats to choose from?

Bullfrog Marina operates on a thin margin. The net effect is that Bullfrog Marina will lose at least half of its business and will not survive tunnel construction.

This same scenario will repeat itself in numerous marinas throughout the Delta. The Delta will not be the same place after the loss of dozens of its wonderfully funky marinas. Pictures of several Delta Marinas that will be lost forever are attached as Attachment 6. These place-making Delta treasures cannot be replaced.

## **2. Destruction of Legacy Communities.**

The FEIR/S does not disclose significant adverse impacts on legacy communities Clarksburg, Hood, and Locke. Locke is also a designated historic district on the national register of historic places and administered by the United States Park Service. In short, from the perspective of preserving the Delta as place, tunnel proponents have chosen the absolute worst possible location for the location of the intakes.

The immediate area of construction encompassing the three intakes, forebay, and associated construction facilities described in Alternative 4A is located in the most historic, scenic, and culturally significant area of the Delta. The massive construction effort extending over many years will destroy the fragile small-towns and community identity of this special place.

The towns of Locke, Clarksburg, Hood, and Walnut Grove will be destroyed, never to regain their identity again. The FEIR/S correctly identifies the character of the northern Delta but fails to apprehend the impact that tunnel construction and operation will have on these communities. The FEIR/S states that:

The Delta Reform Act of 2009 designated a number of unincorporated Legacy communities in the Delta, including Bethel Island, Clarksburg, Courtland, Freeport, Hood, Iselton, Knightsen, Rio Vista, Locke, and Walnut Grove. These communities exemplify the Delta’s unique cultural history and contribute to the sense of the Delta as a place.

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<sup>8</sup> Other trailer boaters use the launch ramps at nearby Orwood Resort. Orwood also provides dry storage facilities, campgrounds (which trailer boaters sometimes use for the weekend), a lively bar and grill, and a gas dock. Like the Discovery Bay Marina, the Orwood gas dock is also constrained by several 5 mile per hour zones.

FEIR/S at p. 16-3. In addition to being a legacy community, the town of Locke is a National Historic District and “the only town in the United States built primarily by early Chinese immigrants.” Cal. Pub. Res. Code § 32301(f). According to the National Park Service, Locke is the “largest, most complete example of a rural, agricultural Chinese American community in the United States.” A letter from the Chairman of the Locke Management Association, Russell Ooms, is attached hereto as Attachment 7. Mr. Ooms is the best position to judge the effect of the project on his sensitive community.

Locke retains its original historic buildings and wooden sidewalks. It is also still home to a thriving ethnically Chinese community. Locke, Clarksburg, Hood, and Walnut Grove are all set in a gentle, quite, rural waterscape and landscape. The setting is much as it was when Locke was built in the early twentieth century. This is all one historic, culturally significant, vernacular landscape that is interwoven with the historic towns and buildings that adorn it. These are small towns where old men and old women gather at public places; at the library; at the small restaurants and cafes; at the park bench.

The FEIR/S recognizes but vastly underestimates the negative impact that the project will have on these communities:

Construction activities associated with water conveyance facilities would be anticipated to result in changes to the rural qualities of these communities during the construction period ... particularly for those communities in proximity to water conveyance structures including Clarksburg, Hood, and Walnut Grove. Effects associated with construction activities could also result in changes to community cohesion if they were to restrict mobility, reduce opportunities for maintaining face-to-face relationships, or disrupt the functions of community organizations or community gathering places ... . Under Alternative 4A, several gathering places that lie in the vicinity of construction areas could be indirectly affected by noise and traffic associated with construction activities, including Delta High School, the Clarksburg Library, Clarksburg Community Church ... and several marinas or other recreational facilities.

FEIR/S at p. 16-279. The CEQA conclusion states that impacts will be mitigated to a level of insignificance and the NEPA conclusion states that mitigation measures would reduce adverse effects. FEIR/S 16-270–280. The mitigation and avoidance measures, however, are inadequate.

The project size in relation to the community size is too overwhelming to mitigate impacts. Intake 2 is directly across the river from Clarksburg and intake 3 is a few hundred yards downstream from intake 2. Intakes 2 and 3 effectively form one giant construction site that is ten times the size of Clarksburg. A look at Figure M3-4, sheet 1 (found in the map book at the end of Chapter 3) shows the gargantuan nature of the construction activities juxtaposed to the tiny town. Map book sheet M3-4, sheet 2 shows tiny Hood almost swallowed by the construction yard that dwarfs and touches it.

Relocation of Highway 160 eastward into Hood will mean the demolition of several going businesses, including the popular bar and restaurant, the Hood Supply Company, which is a community gathering place. This could be avoided with better planning.

Table 16A-7 shows that in year 3 of construction, 2,427 construction workers will be laboring on the project and a total 7,988 workers (including support and services for the construction workers) will be in place. Approximately this level of activity continues for nine years. FEIR/S at p. 16A-14–17. An impact of this duration is considered a permanent impact under CEQA. The area around the intakes is the most concentrated area of work and contains staging yards, disposal sites, and other support facilities in addition to the construction of the intakes themselves. The population of Clarksburg is approximately 1500 persons. The population of Hood is 271 persons. The population of



Locke is about 60 persons. A work force that outnumbers the population by several multiples and is armed with very large pieces of construction equipment cannot be mitigated.

The mitigation measures won't work. They are cookie-cutter-cut-and-paste garble that clearly was not thought through in any intelligent way against the real situation at hand. The noise abatement plan states that "a temporary sound barrier shall be constructed between the sensitive area and the construction related noise source." Nine years is not temporary and the entire towns would have to have walls built around them. Likewise, there is no way to mitigate the noise *on the river* from pile driving and constant barge traffic. Activity on docks and boats will be driven away.

There is a pro-forma barge operation plan as a part of mitigation measures but barges are big and noisy and there will be a lot of them making frequent trips. The effect of barges on riverside and boating experiences cannot be mitigated to a level of insignificance. This is a permanent significant adverse environmental impact that is not disclosed. Riverside noise and congestion mitigations include "Provide Notification of Maintenance Activities in Waterways." FEIR/S at p.3B-12. Notification of ongoing, heavy, noisy barge work will not reduce the amount of boaters who will abandon the area permanently.

DWR proposes to offer the construction site as a tourist attraction. It hopes people who have abandoned the area because they go there for peace and quiet and lack of congestion and are driven away by DWR's destruction of all those qualities will come back to gawk at the construction sites from viewing platforms offered by DWR. FEIR/S 3B-79. This is absurd.

The whole undertaking is so large and unpleasant and of such a long duration, tourists and others who now regularly visit the area will scratch it off of their list of places to visit. Residents will move away and businesses will close. The FEIR/S recognizes the possibility of abandonment but then seems to forget it. Negative "visual or noise-related effects on residential property could lead to localized abandonment of buildings." FEIR/S at p. 16-279. Abandonment, once begun, has a negative feedback loop. Entire communities could fold under the long strain.

The FEIR/S fails to disclose significant adverse impacts that will utterly destroy the most scenic and culturally rich part of the Delta. The lead agencies could not have picked a spot more vulnerable to destruction from large-scale construction activities than this one.

If the Council is to consider multiple new intakes to be within the range of acceptable options, a serious analysis of impacts and exploration of *alternatives*, such as locating the intakes elsewhere, must be undertaken. The effect of construction on the adjacent communities has not been considered as a factor in siting intakes in the current CWF plan. Although we think multiple new intakes are a bad idea, there are much better places to put them, such as in the Yolo Bypass, where they will not destroy the cultural heart of the Delta.

### **3. Some Scoping Ideas For Conveyance, Storage, And Operation.**

Although the purpose of scoping is to develop ideas for alternatives, we can give a few suggestions as to how scoping might be guided.

- \* For any facilities constructed within the Delta, all construction activities should be located at least ten miles away from Delta legacy communities and historic sites.
- \* For any facilities constructed within the Delta, facilities and construction activities, including barge traffic, should be located away from prime boating and anchorage areas.

- \* For any facilities constructed within the Delta, construction activities should be designed and located so that alternatives are chosen that avoid impacts on recreational boating. For example, barge traffic and construction activities should be avoided in the boating season, from May to October.
- \* Any new facilities should further the goal of storing floods to ride out droughts. No new diversions should take place during the low flow summer months.
- \* As the Delta Plan recognizes, there is a dire shortfall in storage capacity within the entire CVP/SWP system. This past winter graphically demonstrated the lack of storage as tens of millions of acre feet of peak flood flow were diverted around the Delta in the Yolo Bypass and out to sea. The system lacked any capacity to capture and store this water. Existing reservoirs were full and CWF's new intakes would have remained shuttered throughout this period as there was no place to put the water.

**New storage must be an integral part of any project that includes conveyance improvements. We must have conveyance-storage-operation projects. Not single-focus conveyance projects.**

- \* Alternatives considered during scoping should include construction of new conveyance facilities to take water from the CVP and SWP distribution systems and deliver it to new groundwater recharge facilities south of Delta.
- \* Alternatives considered during scoping should include north of Delta off-stream storage coupled with increased groundwater recharge facilities so floods can be captured and stored north of Delta, then released to flow through the Delta in the summer, and be diverted at Jones and Banks to be transported via CVP and SWP to new or expanded groundwater recharge facilities south of Delta. This is a win-win that benefits the environment and in-Delta users (increased flow through the Delta in summer) and water system reliability (increased groundwater storage for conjunctive use).
- \* Alternatives considered during scoping should all include reduced reliance on the Delta and increased regional self-sufficiency by requiring contractors to show that new facilities will be consistent with quantifiably reducing Delta reliance.
- \* Conveyance-Storage-Operation policies should be adopted as regulations rather than recommendations or narrative sections of the Delta Plan. As the Council has acknowledged, no portion of the Delta Plan not adopted as a regulation can ever be enforced. This means that absent adoption as a regulation, the Council will be powerless to find inconsistent a project that violates every one of its forthcoming pronouncements on Conveyance-Storage-Operation

### **III. Scoping For Flow Performance Measures.**

Flow performance measures should contain numerical targets and should look over the horizon to a Delta of significantly reduced exports and significantly restored flows—perhaps 20, 30, or even 50 years in to the future. The State Water Resources Control Boards Water Quality Objectives are inadequate to serve the purpose of performance measures in the context of the Delta Plan. An example flow performance measure for the Delta Plan could read something like the following:

Progress toward restoring Delta flows shall be measured on a percentage basis as progress toward achieving an export level limited to 25% [or 20 % or 30% as the Council would determine] of Delta inflow by 2040 [or 2030 or 2050].

This example performance measure would motivate affected parties to expand storage and improve conveyance with an eye toward operating both to harvest water that is currently unavailable because of system limitations. It would integrate with conveyance-storage policies, and would satisfy the mandate that “[t]he Delta Plan shall promote options for new and improved infrastructure relating to the water conveyance in the Delta, storage systems, and for the operation of both to achieve the coequal goals.” Wat. Code § 85304.

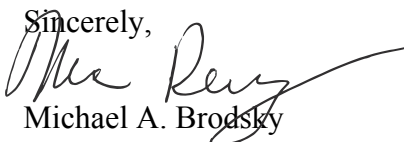
Progress toward restoring Delta flows need not be measured by an export to inflow ratio. Other metrics, including percentage of unimpaired flow, the Net Delta Outflow Index, or others might be better. Scoping should explore the advantages and disadvantages of the various available metrics.

The performance measures should be adopted as regulations. The performance measures mandated for the Delta Plan fit within the definition of regulations pursuant to Government Code section 11342.570. There is no advantage to avoiding the APA rulemaking process and every advantage to complying with it.

### **IV. Conclusion.**

Thank you for allowing us this opportunity to share our views with you. We strongly support an active and robust Council. We know others would prefer for the Council to be hobbled. We look to counteract that position wherever we can. We believe that a proactive conveyance policy that looks beyond the demise of CWF is the best path forward for the Delta as a healthy ecosystem and for the Council as a robust and respected institution.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Brodsky", written over the printed name.

Michael A. Brodsky



Chapter 6 – Surface Water			Alternative																				
SW-2: Changes in Sacramento and San Joaquin River flood flows (% change in flow compared to No Action [LTI for BDCP alternatives and EIT for 4A, 2D, and 5A])	Sacramento River at Vernalis	Existing Condition	No Action	1A	1B	1C	2A	2B	2C	3	4	5	6A	6B	6C	7	8	9	4A	2D	5A		
		n/a	1%	-1%	-1%	-1%	-1%	-1%	-1%	-1%	-1%	-1%	-1%	-1%	-1%	-1%	-1%	-1%	-1%	3%	3%	3%	
		n/a	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	
		n/a	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	
SW-3: Changes in reverse flow conditions in Old and Middle Rivers (Months in which reverse flow conditions are reduced or increased)	Compared to MAA	n/a	n/a	Reduced, except in Apr, May, and Oct	Reduced, except in Apr, May, and Oct	Reduced, except in Apr, May, and Oct	Reduced, except in Apr	Reduced, except in Apr	Reduced, except in Apr	Reduced, except in Apr, May, and Oct	Reduced, except in Apr, May	Reduced, except in Apr, May	Reverse flow would not occur	Reverse flow would not occur	Reverse flow would not occur	Reverse flow would not occur	Reverse flow would not occur	Increased, except in Jun	Reduced, except in Apr, May	Reduced, except in Apr	Reduced, except in Apr		
		n/a	Reduced, except in Apr, May	Reduced, except in Apr, May	Reduced, except in Apr, May	Reduced, except in Apr, May	Reduced, except in Apr, May	Reduced, except in Apr, May	Reduced, except in Apr, May	Reduced, except in Apr, May	Reduced, except in Apr, May	Reduced, except in Apr, May	Reduced, except in Apr, May	Reverse flow would not occur	Reverse flow would not occur	Reverse flow would not occur	Reverse flow would not occur	Increased, except in Jun	Reduced, except in Apr, May	Reduced, except in Apr, May	Reduced, except in Apr, May		
		n/a	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	
		n/a	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	
SW-3: Changes in reverse flow conditions in Old and Middle Rivers (Months in which reverse flow conditions are reduced or increased)	Compared to EC	n/a	Reduced, except in Apr, May	Reduced, except in Apr, May	Reduced, except in Apr, May	Reduced, except in Apr, May	Reduced, except in Apr, May	Reduced, except in Apr, May	Reduced, except in Apr, May	Reduced, except in Apr, May	Reduced, except in Apr, May	Reduced, except in Apr, May	Reduced, except in Apr, May	Reduced, except in Apr, May	Reduced, except in Apr, May	Reduced, except in Apr, May	Reduced, except in Apr, May	Increased, except in Jun	Reduced, except in Apr, May	Reduced, except in Apr, May	Reduced, except in Apr, May		
		n/a	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	UTS/NA	
		n/a	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	
		n/a	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	

Level of significance or effect before mitigation  
(Quantity of impact: number of sites, structures, acres, etc. affected)

</

## Key

Level of significance or effect before mitigation  
(Quantity of impact: number of sites, structures, acres, etc. affected)



n/a not applicable  
> greater than  
< less than  
≈ about equal to

Level of significance or effect after mitigation  
(CEQA Finding / NEPA Finding)

**CEQA Finding**  
NI No Impact  
LTS Less than significant  
S Significant  
SU Significant and unavoidable

**NEPA Finding**  
B Beneficial  
NE No Effect  
NA Not Adverse  
A Adverse

Figure 6-0  
Comparison of Impacts on Surface Water





## SACRAMENTO RIVER PROPOSED DEC-APR NDD BYPASS FLOW RULES

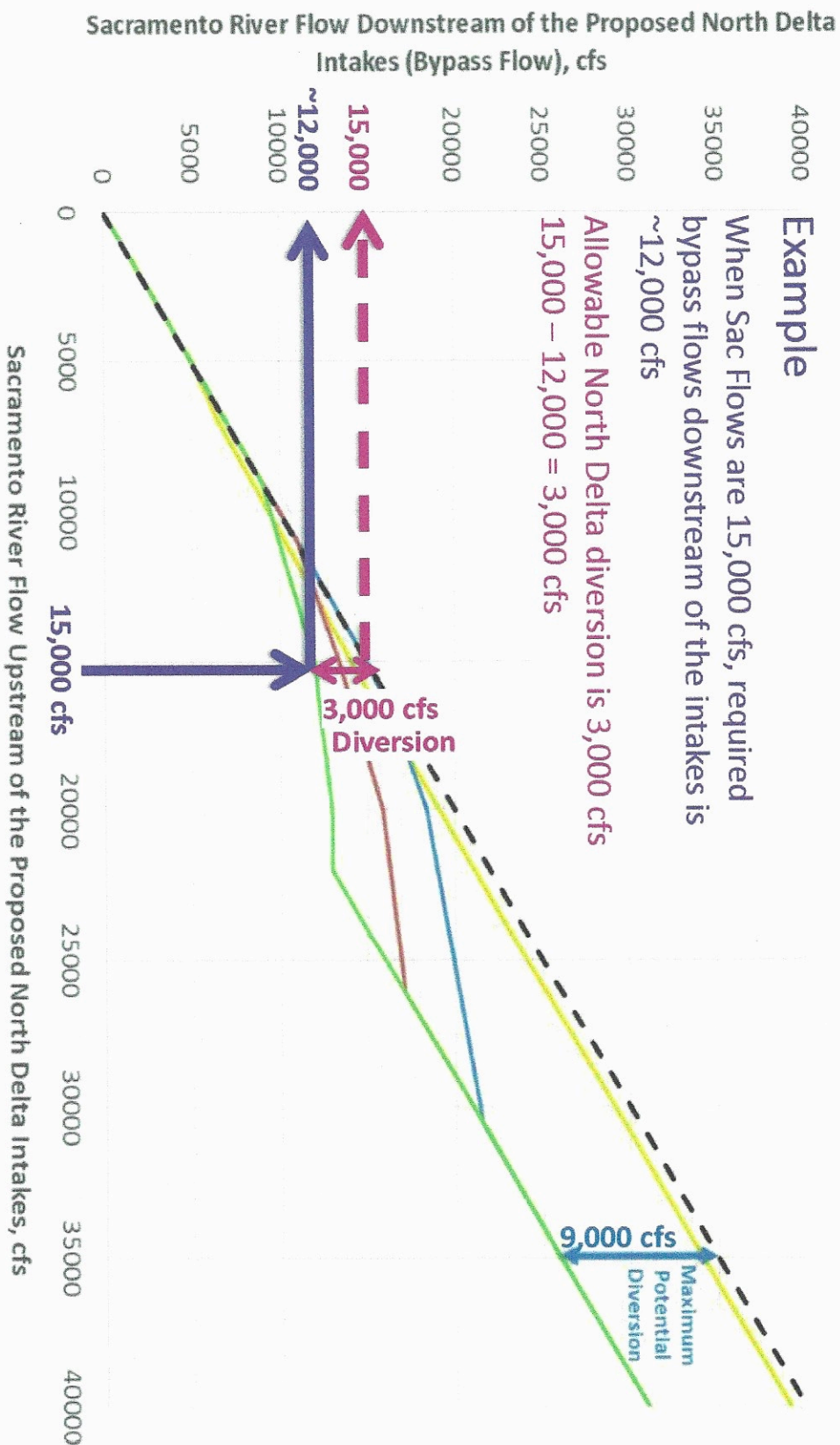
DWR-5

Constant Low Level Pumping    Level 1    Level 2    Level 3    -- No Diversion

### Example

When Sac Flows are 15,000 cfs, required bypass flows downstream of the intakes is ~12,000 cfs

Allowable North Delta diversion is 3,000 cfs  
 $15,000 - 12,000 = 3,000$  cfs



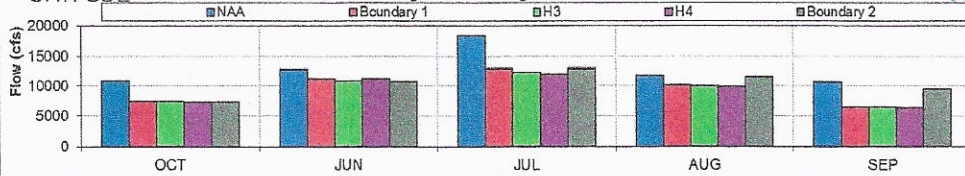


# Dry Year Average (Sac Valley 40-30-30 Index) Current Climate

The information provided represents the monthly average flows at the locations you requested. The actual flows reflecting the effects of natural tide, could be significantly different from those shown in the figures.

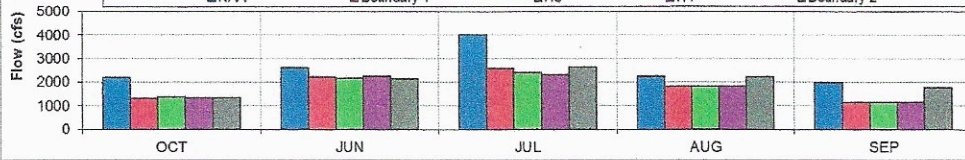
SHR-352

Sacramento River upstream Sutter and Steamboat (d/s of NDD)  
Dry Year Average



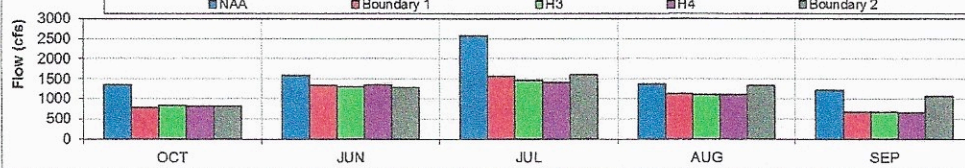
Sutter Slough at Head

Dry Year Average



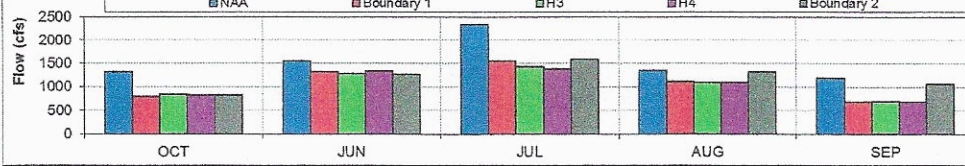
Steamboat Slough upstream of Sutter Confluence

Dry Year Average



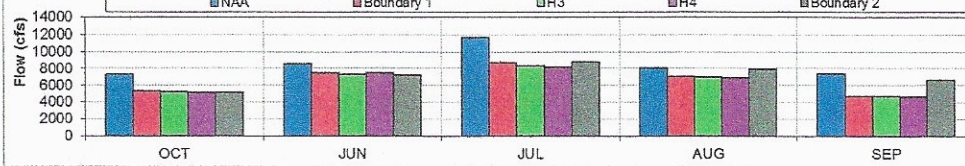
Miner Slough

Dry Year Average



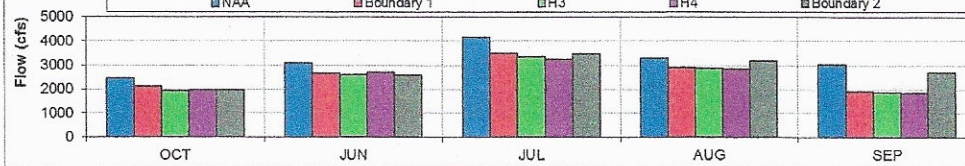
Sacramento River upstream of DCC

Dry Year Average



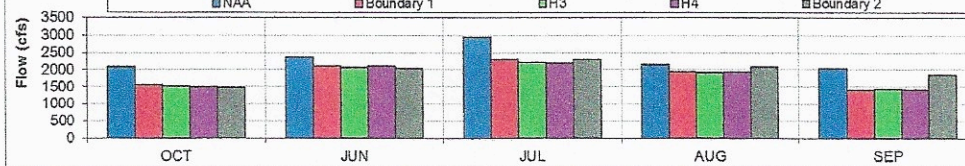
Delta Cross Channel

Dry Year Average



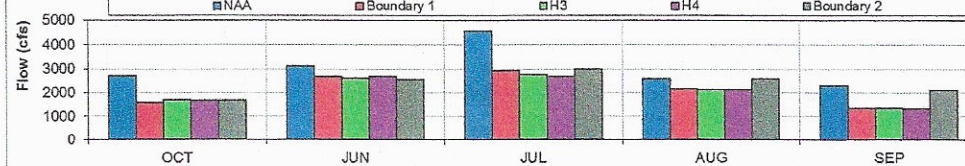
Georgiana Slough

Dry Year Average



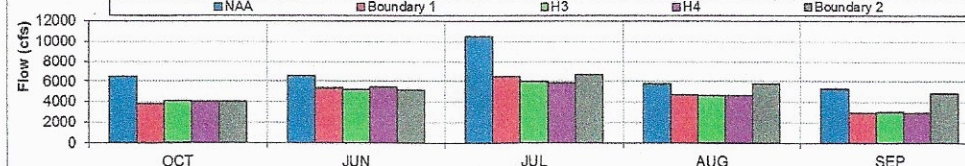
Sacramento River downstream of Georgiana Slough

Dry Year Average



Sacramento River at Rio Vista

Dry Year Average



ATT 3

Attachment  
3



ATT 4

Attachment  
4

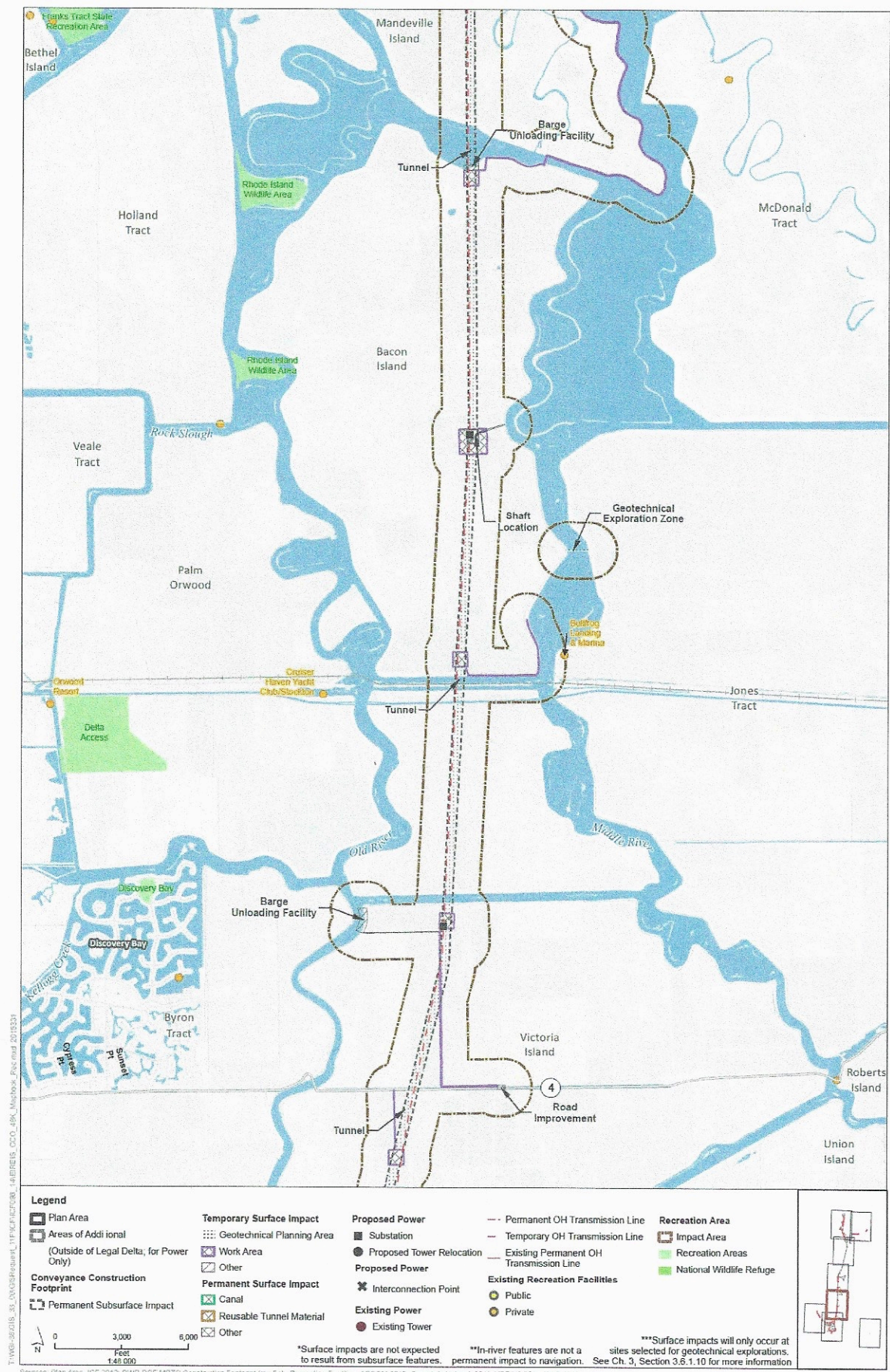


Figure M15-4: Sheet 5 of 8  
Recreation Facilities — Modified Pipeline/Tunnel Alignment (Alternative 4)







## Snug Harbor on Steamboat Slough

Docks and launch ramp will become unusable with flows on Steamboat Slough reduced from 2500 cfs to 1500 cfs under operation scenario H3.



Snug Harbor on Steamboat Slough





## Discovery Bay in the heart of the Delta

Intrusion of salt water due to reduced freshwater flows and increased nutrient loading due to increase in San Joaquin River water and decrease in Sacramento River water will render the bays of Discovery Bay unusable for recreation. Loss of recreation in these bays is a devastating blow to our Delta way of life.

DSM2 fingerprint analysis shows higher percentage of San Joaquin source water under CWF. Higher nutrient loads in San Joaquin water cause increased algal and invasive weed growth.



East Contra Costa Irrigation  
DWR has entered into contract with  
Irrigation District to supply the  
water (via CCWD) because  
and water quality degradation  
CWF will make water unusable for  
irrigation. But what about the people  
live in Discovery Bay?

Attachment 7

ATT 7

P.O. Box 888  
Walnut Grove, CA 95690

LMA

# LOCKE MANAGEMENT ASSOCIATION

*A non-profit organization benefiting the  
last rural Chinese town in the United States, the Town of Locke*

2017  
Locke Management Association  
Board of Directors

January 29, 2017

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Russell Ooms

*Vice Chair*  
Brock Alexander

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lockelma@gmail.com

Brooke Rachel White  
California Water Fix Program Manager  
Bureau of Reclamation  
Bay Delta Office  
801 I Street, Suite 140  
Sacramento, CA, 95814-2536

Re: Undisclosed Adverse Environmental Impacts to the Locke  
Historic District / Request for extension of NEPA/CEQA  
comment period.

Dear Ms. White:

I am writing to point out serious flaws in the Final Environmental Impact Report / Final Environmental Impact Statement ("FEIR/S") for the California WaterFix Project ("CWF").

The Town of Locke is entirely within a the Locke National Historic District, listed on the National Register of Historic Places. According to the National Park Service, Locke is the "largest, most complete example of a rural, agricultural Chinese American community in the United States."

We are very concerned that the impacts of the CWF on Locke and its Chinese American community members and heritage are being ignored by the state and federal agencies pursuing the CWF project. According to the United States Environmental Protection Agency, Environmental Justice is:

the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

(<https://www.epa.gov/environmentaljustice>.) That is all we ask: that we be given the opportunity to be involved and treated fairly.

In order for that to be true, we need both the CEQA and NEPA comment periods to remain open. As of now, the comment periods close on January 30, 2017. That does not give us the opportunity to review the massive FEIR/S, which is the largest document I have ever seen in my life. It does not give us the opportunity to formulate precise, detailed comments to show you how you are missing the impacts of CWF on our community; it does not give us the opportunity to suggest ways that these impacts can be avoided. As a first step,



please issue a formal extension of the comment period for all purposes for CEQA and NEPA for 30 days, until March 1, 2017.

The Locke Management Association is a governmental unit of Sacramento County. We are charged with management of the town, including preserving its historic buildings and sense of identity. Yet we were never contacted by anyone from the government about the impacts of the CWF on our historic community. Not the Department of Water Resources; not the Bureau of Reclamation; not the Army Corps of Engineers; not the State Office of Historic Preservation.

About a week ago, we were asked by others involved in the CWF project hearings if we were participating in the Army Corps of Engineers historic preservation process for CWF. Up until that time we did not know about it. After we found out the Army was working on historic preservation, we contacted the Army and they did respond with a willingness to meet with us. We expect to meet with them within a few days. But the comment period will be closed by then. We don't understand why we would not have been involved in the historic preservation issues at the very beginning of this process and given the opportunity to be fully informed before the comment period on the FEIR/S closed. It seems odd. You can't make a decision to build the project in its current configurations and then say you will just develop a plan that avoids impacts to historic and cultural values. What if you need to have one intake instead of three to avoid destroying Locke's historic value? What if you need to move the intakes some miles away? These things need to be considered.

CWF will forever change the historic Northern Delta landscape and waterscape. This area of the Delta is the most scenic and the most historic and culturally significant part of the entire Delta. It is as if the project planners sought out the area that would be most negatively impacted by placement of tunnel infrastructure and then decided to make that ground zero for tunnel construction. For example, if the intakes for the tunnels were placed in the Yolo Bypass, which carries millions of acre feet of surplus flood water out to sea, there would be no historic or cultural impact because the bypass is flooded every season anyway and there are no structures or communities there. Putting the intakes in the Yolo Bypass probably also makes better ecological sense because that is where the *surplus* water is. But my concern is the impact on my community and its heritage. I am just using the Yolo Bypass as an example of something that could be considered to avoid all the historic and cultural impacts.

The FEIR/S says that there is no impact from Alternative 4A on Locke and that there would only be impacts if Alternative 9 were selected. I disagree.

Clarksburg, Hood, Walnut Grove, and Locke are all set in the historic landscape that is pretty much as it was when Locke was built in the early twentieth century. Our cultural institutions and gathering places haven't changed much since then either. The FEIR/S discloses that "construction activities associated with water conveyance facilities would be anticipated to result in changes to the rural qualities of these communities [legacy communities of Clarksburg, Hood, and Walnut Grove] during the construction period" and could "also result in changes to community cohesion if they were to restrict mobility, reduce opportunities for maintaining face-to-face relationships, or disrupt the functions of community organizations or community gather places ... . Under Alternative 4A, several gathering places that lie in the vicinity of construction areas could be indirectly affected by noise and traffic associated with construction activities." FEIR/S 16-279. The area of the construction sites for intakes 2, 3, and 5, as well as the intermediate forebay and the muck piles (where the tunnel muck will be dumped) are much larger than the area of our communities. The construction activities will be ongoing for a decade or more and thousands of construction workers will flood the area.

In my opinion, the entire character and community cohesion of these delicate places will be lost forever. Towns will be abandoned. We cannot survive the current plan. We want the opportunity to suggest detailed alternatives and describe in detail the many points you have missed in your environmental review.

Please extend the comment period for both CEQA and NEPA for at least 30 days to March 1, 2017, as a first step in setting things right.

Sincerely,

A handwritten signature in cursive script that reads "Russell James Ooms". The signature is written in dark ink and is positioned below the word "Sincerely,".

Russell James Ooms  
Chairman